



SOME ISSUES OF IMPLEMENTATION OF CONSTITUTIONAL COURT DOCUMENTS

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Annotation: *In this article analyzed the legal nature of the acts of the Constitutional Court. Author highlighted the implementation of the decisions of the Constitutional Court of foreign countries and made comparative analysis with the legislation of the Uzbekistan. Also carried out proposal and recommendations into legislation to improve this sphere.*

Key Words: *Constitutional court, decisions, firmness, conclusion of the Court, legal force.*

Being in the system of judicial authorities, the Constitutional Court is a special body, the activities of which are significantly different from the activities of other state bodies, and the decisions it makes – from the acts they make. Judicial acts, by their legal nature, have different characteristics from documents of other bodies of state power. In the legal literature, such features are “firmness” (ie irrefutability), exclusivity, bindingness and the condition of execution.” Although qualities such as binding and enforceable also apply to the system of documents of other public authorities, it is these features that increase the importance of justice documents as public authorities. Also, the legal force of constitutional court documents is higher than that of general and arbitration court documents. Therefore, the decisions of the constitutional courts are final and not subject to appeal and protest [1]; act directly and do not require confirmation by another subject [2]. According to the law of the Republic of Uzbekistan “On the Constitutional Court” the decision of the Constitutional Court can be reviewed by it on its own initiative: in view of newly discovered circumstances unknown to the Constitutional Court at the time of the decision; in the event of a change in the constitutional norm on the basis of which the decision was made; if the Constitutional Court recognizes the adoption of this decision in violation of the established procedure for constitutional proceedings.

The decisions and conclusions of the Constitutional Court are subject to official publication within three days after their adoption and come into force from the day of their official publication. The rest of the decisions come into force from the date of their adoption [3].

Analyzing the legislation of other countries shows that, in some countries decisions come into force on the day they are announced. (in Kazakhstan, Moldova - on the day of adoption). In turn, in Belarus, unless a different period is provided for in other acts, the decision comes into force on the day of its adoption.



Although the legislation of Uzbekistan establishes rules on the promulgation and legal force of decisions of the Constitutional Court, the mechanism of execution of its decisions is not specifically mentioned. In this context, an important legal form for the implementation of decisions of constitutional courts is the introduction of a special procedure for the preparation of draft normative acts, the purpose of which is the implementation of decisions of constitutional courts concerning the unconstitutionality of legal provisions. In this regard, J. Nachayeva rightly pointed out that the problem associated with the effectiveness of constitutional justice in the states of the region (similar to most other modern states) is the procedure for implementing decisions of constitutional courts [4]. The effective implementation of the decisions of constitutional courts ensure the protection of the constitutional values.

The Ukrainian Constitutional Court, in its decision, may determine the procedure and time for its implementation, as well as oblige certain state authorities to ensure control over the implementation of the decision. It also provides for administrative liability for failure to comply with the decision of the Constitutional Court. In Kazakhstan, it is envisaged that recommendations and conclusions, concerning the improvement of legislation, contained in the decisions of the Constitutional Council, are subject to compulsory consideration by the relevant state authorities with the obligatory informing of the Constitutional Council about the actions taken by them. In addition, in Kazakhstan if its decision provides for an increase in government spending or a reduction in government revenues, the Constitutional Council determines the deadline for the implementation of the decision in agreement with the Government. In Russian Federation the Government, within three months after the publication of the decision of the Constitutional Court, submits to the State Duma a draft of a new law or amendments, additions to a law recognized by the Constitutional Court as inconsistent with the Constitution. The State Duma is urgently considering a substantive draft law. In Moldova, the Government, within three months from the date of publication of the decision of the Constitutional Court, proposes in parliament a draft law on amendments and additions to the law, the provisions of which were found to be inconsistent with the Constitution, or on the recognition that they became invalid [5]. The draft law is considered by the parliament on an extraordinary basis. If the normative acts of the President or the Government were recognized as unconstitutional, in this case, within two months from the publication of the decision of the Constitutional Court, they are obliged to change their act or adopt a new act. According to the legislation of Litva, all state institutions and their officials must withdraw by-laws or their provisions, which they have adopted and which are based on the act, declared unconstitutional. Decisions based on legal acts found to be contradictory Constitutions or laws should not be enforced if they were not implemented prior to the entry into force of the relevant ruling of the Constitutional Court. In Kyrgyzstan, if the Constitutional Chamber ruled that a normative act or a provision contained in it does not comply with the Constitution, or if the decision of the



Constitutional Chamber implies the need to eliminate a gap in the system of sources of law, the Government, within four months after the publication of the decision of the Constitutional Chamber, submits a draft constitutional law or a draft law following from the content of this decision. The our national legislation determines that The state body that adopted the act recognized as inconsistent with the Constitution of the Republic of Uzbekistan must bring its act in accordance with the Constitution of the Republic of Uzbekistan no later than one month on the basis of the decision of the Constitutional Court.

State bodies that made decisions on the basis of a regulatory legal act recognized as inconsistent with the Constitution of the Republic of Uzbekistan must revise them within one month.

However national legislation does not provide the appropriate procedure of implementation of the decisions of the Constitutional Court. For instance the law does not highlight how the state body that adopted the act recognized as inconsistent with the Constitution of the Republic of Uzbekistan revise them, how they implement it and if they do not executed in time, what kind of results will be: this means that in practice the decisions of the Court may remain unfulfilled. From that point of view, we propose to determine the procedure and the appropriate term of implementation of the decisions of Constitutional Court in Uzbekistan in law "On Constitutional Court". It is also proposed to establish a department for monitoring the implementation of decisions of the Constitutional Court in order to study the activities of state bodies to ensure the implementation of decisions of the Constitutional Court and monitor the implementation of the tasks set by the decisions of individuals and legal entities. The establishment of this section will ensure the timely and effective implementation of decisions of the Constitutional Court.

The doctrine of separation of powers based on the principle of the rule of law, put forward by Montesquieu, has not lost its relevance today[6]. In Conclusion it should be noted that the effective implementation of the decisions of Constitutional Court ensure the protection of the Constitution and balance among the state bodies.

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